



November 5, 2018

Ex Parte

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: WC Docket No. 10-90 & CC Docket No. 01-92 – CenturyLink Petition for Forbearance

Dear Ms. Dortch:

On November 1, 2018, Michel Singer Nelson, representing O1 Communications ("O1"); David Aldworth, Alexander I. Schneider and Robert H. Jackson, representing Teliax, Inc. ("Teliax"), met with Arielle Roth and Kagan Despain from Commissioner O'Rielly's office with respect to O1's and Teliax's previously presented positions in the above-numbered proceedings. We also discussed the attached documents that were provided to Ms. Roth and Mr. Despain.

The Parties explained how they have invested in IP networks that provide additional and better quality services than TDM networks but must also invest in TDM capacity to interconnect with AT&T and Verizon. We stated that the Parties need to recoup their investments in advanced networks, such as Teliax's Toll Free Exchange®, just as AT&T and Verizon were able to use access revenues for decades to pay for their TDM networks and associated operating costs. They stressed that the availability of access charge revenues has enabled completion and the inability of CLECs to earn the same would result in a strong movement back to monopoly.

We explained how over-the-top VoIP providers and their CLEC partners perform the very same functions as cable TV operators do for facilities-based VoIP services and as TDM voice providers do for traditional voice services. Additionally, the Parties showed that the provider of a broadband connection does not perform the functions necessary to offer voice services but merely transports packets.

The Parties explained how long-standing Commission precedent,¹ affirmed by courts, permits customers and other carriers to interconnect at any beneficial point absent harm to the public. Such precedent is technology neutral and did not establish any limit on the distance between the interconnecting party and the interconnection. Arguments about "long loops" disqualifying the application of end office access are inconsistent with binding precedent. We also explained that expenses associated with the "loop" are not recovered by end office switched access charges but instead are recovered through carrier common line charges.²

Additionally, we clarified that the *Ymax Order*, 26 FCC Rcd 5742 (Apr. 8, 2011) was limited to a specific dispute between Ymax and AT&T over the meaning of Ymax's "faulty" tariff, which did not describe IP services, and that the Commission recognized in the *2011 Transformation Order* that the

¹ *Petition of Heritage Village Church and Missionary Fellowship, Inc.; For emergency relief with respect to PBX interconnection to telephone service of Southern Bell Tel. & Tel. Co.*, 88 FCC 2d 1436 (1982), *aff'd Fort Mill Telephone Co. v. FCC*, 719 F.2d 89, 91-92 (4th Cir. 1983.). *Atlantic Richfield Co.*, 59 Rad. Reg. 2d (P&F) 417 (Common Carrier Bureau 1985), *app. for rev. denied*, 3 FCC Rcd 3089 at ¶ 22 (1988), *aff'd Public Utility Comm'n of Texas v. FCC*, 886 F.2d 1325 (D.C. Cir. 1989).

² 47 C.F.R. §69.304

Ymax Order was limited to the proposition that “a carrier may not impose charges other than those provided for under the terms of its tariff” and not a statement of policy that was intended to prevent LECs from offering end office services validly described in their tariffs. *2011 Transformation Order*, at ¶ 970, n.2026.

Finally, the Parties described the history of the *2011 Transformation Order*, including the record that developed on the *VoIP Symmetry Rule* months prior to the *Order*, including a letter from AT&T, dated October 21, 2011, in which AT&T decried the application of any *VoIP Symmetry Rule* to over the top services. The Companies contrasted this letter with footnotes in the 2011 Transformation Order. *See In re Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663, 18026-27, ¶¶ 970-971 n.2024-2026 (2011).

Pursuant to Section 1.1206(b) of the Commission’s rules, a copy of this letter is being electronically submitted into the record of these proceedings and provided to the Commission participants. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

/s/ Robert H. Jackson
Robert H. Jackson
Counsel for Teliix, Inc.

cc: Arielle Roth
Kagan Despain